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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/817,115	04/02/2004	Peter G. Webb	10040012-1	3835
22878 7590 11/23/2007 AGILENT TECHNOLOGIES INC. INTELLECTUAL PROPERTY ADMINISTRATION, LEGAL DEPT. MS BLDG. E P.O. BOX 7599 LOVELAND, CO 80537			EXAMINER SIMS, JASON M	
			ART UNIT 1631	PAPER NUMBER
			NOTIFICATION DATE 11/23/2007	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

IPOPS.LEGAL@agilent.com

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

10/817,115

Applicant(s)

WEBB ET AL.

Examiner

Jason M. Sims

Art Unit

1631

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 12 October 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: \_\_\_\_\_.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

Continuation of 11. does NOT place the application in condition for allowance because: Applicant argues that Cronin's disclosure is deficient in that the arrays are not coded about the arrays themselves.

Applicant's argument is not found persuasive as applicant's disclose in the summary "in many embodiments the signal is a symbol or a code, such as binary-code or non-binary-code, that provides the information about the array" and therefore data obtained from the array itself is reasonably interpreted as being "array information obtained from an array" as claimed. Furthermore, Applicant gives the broad definition of encoded information as being "Information about an array may be "encoded" in data obtained from an array, if that data is obtained from one or more array information features contained in that array." In addition, several examples of what form that data may be in were given as being for example, "any alphabet, including the English and Braille alphabets, or binary or non-binary coding systems." Therefore, the information obtained from the array, which has been analyzed through a computer, is clearly obtained from the array features and in the form of binary coding during the analysis along with output being in non-binary coding as is the nature of the workings of modern computers.

Applicant further alleges that Cronin does not have an effective filing date of May 1, 2002 and that the information which is decoded is not information about the array, per se, but is information provided by the array.

Applicant's allegations are not found persuasive because it was stated in the Non-Final office action mailed, 11/2/2006, the Cronin et al. (US PGPUB # 2006/229824) has an effective filing date of 05/01/2002, which is for (US PGPUB # 2003/0165830) and which also has clear support for the subject matter of claim 31. Cronin et al. at paragraph [0138] teaches identifying the target through decoding information obtained from an array hybridization. Furthermore, Cronin et al. at paragraph [0089] discusses performing computer analysis on the data from array chips. Therefore, it is clear that the stated method steps in the referenced invention have a clear computer analysis component, which performs the step of decoding information obtained from an array. The information, which has been decoded, clearly falls under the broad interpretation of encoded information as defined by the applicants.

Applicant further alleges that Cool does not overcome the deficiencies allegedly not taught by Cronin such as information for decoding encoded array information obtained from an array comprising one or more array information features, which has been addressed above. Therefore, applicant's allegations are not found persuasive.

Applicant further alleges that Hu et al. does not overcome the deficiencies allegedly not taught by Cronin such as information for decoding encoded array information obtained from an array comprising one or more array information features, which has been addressed above. Therefore, applicant's allegations are not found persuasive.

MICHAEL BORIN, PH.D  
PRIMARY EXAMINER

